

To:	Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Southern District of California on the following: X Patents or Trademarks:

DOCKET NO.	DATE FILED	US District Court Southern District of California
3:09-cv-02615-W-CAB	11/19/09	San Diego, CA
PLAINTIFF		DEFENDANT
Oakley, Inc		Pepper's Performance Eyewear, Inc.
PATENT OR TRADEMARK NO.	PATENT OR TRADEMARK NO.	PATENT OR TRADEMARK NO.
1. 5,387,949	6. D463,478	11. D399,866
2. 5,638,145	7. 5,054,903	12. D399,519
3. D554,689	8. 5,137,342	13.
4. D547,794	9. D333,145	14.
5. D556,818	10. D384,364	15.

In the above-entitled case, the following patents(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY	
	Amendment <u> </u> Answer <u> </u> Cross Bill <u> </u> Other Pleading <u> </u>	
PATENT OR TRADEMARK NO.	PATENT OR TRADEMARK NO.	PATENT OR TRADEMARK NO.
1.	6.	11.
2.	7.	12.
3.	8.	13.
4.	9.	14.
5.	10.	15.

In the above-entitled case, the following decision has been rendered or judgment issued:

DECISION/JUDGMENT	<i>Dismissed</i>
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CLERK	(BY) DEPUTY CLERK	DATE
W. Samuel Hamrick, Jr.	<i>W. Samuel Hamrick, Jr.</i>	4/9/2010

FILED

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CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY  DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

OAKLEY, INC., a Washington
corporation,

Plaintiff,

vs.

PEPPER'S PERFORMANCE
EYEWEAR, INC. dba CHILI'S
EYEGEAR, a Pennsylvania
corporation,

Defendant.

Case No.: 09 CV 2615 W (CAB)

ORDER ON STIPULATED CONSENT
JUDGMENT AND DISMISSAL

This matter has come before this Court for consideration upon the Complaint of the plaintiff, Oakley, Inc. ("Plaintiff"), for patent infringement under 35 U.S.C. § 271 against Pepper's Performance Eyewear, Inc. dba Chili's Eyegear ("Defendant").

Having settled this Action, the parties have agreed to the entry of this Consent Judgment under the terms provided herein:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. Plaintiff is a Washington corporation with a principal place of business at One Icon, Foothill Ranch, California 92610 ("Oakley").
2. Defendant Peppers Performance Eyewear, Inc. is a Pennsylvania corporation with a principal place of business at 3001 Pulawski Way, Pittsburgh, Pennsylvania 15219 ("Peppers").

Order for Dismissal

3. This Court has jurisdiction over this Action, personal jurisdiction over the parties and venue is proper in this judicial district. This Court has subject matter jurisdiction under, *inter alia*, 28 U.S.C. §§ 1331, 1332 and 1338. This Court has personal jurisdiction over Defendant because it has caused its products to be advertised, promoted, and sold in this judicial district, and the causes of action arose out of those contacts. For these same reasons, venue is proper in this judicial district, including under 28 U.S.C. § 1391(b)-(c). The parties stipulate that this Court may exercise jurisdiction to enter and enforce this Consent Judgment.

4. Plaintiff is a manufacturer of high performance sunglasses, eyewear and other products and the owner of U.S. Patent Nos. 5,387,949, 5,638,145, 5,054,903, 5,137,342, D554,689, D547,794, D556,818, D463,478, D333,145, D384,364, D399,866, and D399,519.

5. Defendant Peppers Performance Eyewear, Inc. is a manufacturer, importer, and distributor of sunglasses under the Pepper's and Chili's Eyegear brand names.

6. The parties consent that this Court enter and approve this Consent Judgment whereby:

(i) Defendant Peppers agrees to not contest the validity or enforceability of Oakley's U.S. Patent Nos. 5,387,949, 5,638,145, 5,054,903, 5,137,342, D554,689, D547,794, D556,818, D463,478, D333,145, D384,364, D399,866, and D399,519. Defendant Peppers also acknowledges and agrees that U.S. Patent Nos. 5,387,949, 5,638,145, 5,054,903, 5,137,342, D554,689, D547,794, D556,818, D463,478, D333,145, D384,364, D399,866, and D399,519 are valid and enforceable;

(ii) Defendant Peppers, and its officers, employees, agents, and successors in interest, is hereby permanently enjoined and restrained as of the date of this order from making, importing,

1 using, offering to sell, or selling any eyewear that infringes any
2 one or more of the designs or claims of United States Patent
3 Nos. 5,387,949, 5,638,145, 5,054,903, 5,137,342, D554,689,
4 D547,794, D556,818, D463,478, D333,145, D384,364,
5 D399,866, and D399,519, during their terms, without license or
6 other authority from Oakley, and from offering or advertising to
7 do so, and from aiding or abetting in any way or inducing or
8 contributing to the infringement of these patents.

9 (iii) As compensation to Oakley in this matter, Peppers has agreed to
10 pay Oakley the sum of one hundred thirty-five thousand dollars
11 (\$135,000.00).

12 7. The parties further agree to waive all right to appeal from this judgment
13 and that each party shall bear its own costs and fees.


14 8. Notwithstanding the above waiver of all right to appeal, and other than
15 as set forth in this Consent Judgment, Defendant makes no admission hereby as to
16 any individual allegation in the Complaint or to liability based thereon.

17 9. Each Party shall bear its own costs.

18 10. The validity, construction and performance of this Consent Judgment
19 shall be governed by the laws of the United States of America or the State of
20 California, as applicable, without reference to any conflicts of law provisions of
21 California law.

22 11. All claims, defenses, and counterclaims of Oakley and Defendant
23 Peppers are dismissed with prejudice.

24 DATED: 3/3/10

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26 U.S. DISTRICT COURT JUDGE
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